

REMARKS

The present Amendment and Response is fully responsive to the Non-final Office Action mailed February 25, 2008 and is being filed concurrently with a request for a one month extension of time. After entry of the foregoing Amendment, Claims 12, 14-16, 18-27 and 32-34 remain pending in the application. Claims 12, 14-16, 18-27 and 32-34 are currently under examination and have been rejected. By this amendment, independent Claim 12 and dependent Claims 33 have been amended. Claims 1-11, 13, 17, and 28-31 were previously cancelled without prejudice or disclaimer by prior response. It is respectfully submitted that no new matter has been added by the foregoing amendments. In view of the amendments and remarks, it is respectfully asserted that the rejections are now made moot and that the pending claims are in condition for allowance.

Attorney for the Assignee would like to thank Examiner Oyeibisi for the telephonic examiner's interview that was conducted on June 5, 2008. The interview addressed both the present application and co-pending U.S. Pat. Application No. 11/746,524. During the interview, distinctions between the pending claims of the present application and the cited art references were discussed. Additionally, the recent allowance of co-pending U.S. Pat. App. Serial No. 11/746,529 over the art of record was discussed. An agreement was reached that the pending claims are allowable over U.S. Pat. No. 6,464,134 to Page ("Page").

Specifically, an agreement was reached that *Page* does not teach or suggest a method or system that utilizes a previously cleared check transaction in order to clear a second check transaction that has initially failed to clear. In marked contrast, *Page* relates to a system that operates on a single check transaction at a time. *Page* does not utilize information from a first check transaction during the processing of a second check transaction. Accordingly, the pending claims of the present application are allowable over *Page*.

Claim Rejections Under 35 U.S.C. § 112, First Paragraph

In the Office Action, Claims 32-34 were rejected under 35 U.S.C. § 112, first paragraph, as not described in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s) had possession of the claimed invention. More specifically, the

Office Action contends that six different instructions are recited in independent Claim 32, but the Specification as originally filed does not mention six different instructions.

The Office Action recognizes that the Specification mentions modules and instructions; however, the Office Action argues that six different instructions are not described. In response, it is respectfully submitted that the six instructions recited in independent Claim 32 are supported by the Specification as originally filed. Support for each of the six instructions is set forth in the chart below.

Claim Recitation	Support
An apparatus configured to process check data, the apparatus comprising:	[0025] ... The check acceptance system 108 includes a host computer and transaction database 109 , located on a server system, used to log and store transaction information. The term computer, as used herein, comprises one or more computers. The computers comprise, by way of example, processors, program logic, or other substrate configurations representing data and instructions, which operate as described herein. In other embodiments, the processors can comprise controller circuitry, processor circuitry, processors, general-purpose single-chip or multi-chip microprocessors, digital signal processors, embedded microprocessors, microcontrollers and the like.
a first instruction stored in computer readable memory, the first instruction configured to store MICR data associated with a first cleared check from a payor;	[0026] The transaction database 109 may include two or more databases which record uncollected and cleared check information for checks processed by the check acceptance system ... [0036] ... This filter operation is performed to locate MICR data, such as check account numbers and/or associated routing numbers that have proven to be valid ...
a second instruction stored in computer readable memory, the second instruction	[0033] ... At state 210A , using the parsed check MICR data, the check acceptance system electronically submits the check to a check clearinghouse. At state 212A , some or all of

<p>configured to read an indication that a second check from the payor failed to clear because MICR data associated with the second check transaction was incorrect, the second check transaction corresponding to a different check than the first cleared check;</p>	<p>the MICR information is transmitted to the customer's bank. At state 214A, a determination is made as to whether the account number and routing number are correct.</p> <p>[0034] If the check failed to clear because the account number or/and the routing number is incorrect, then at state 218A an alternate account number or/and routing number is potentially selected by the check acceptance system 108.</p> <p>[0035] ... [A] check-returned notification is received. The notification includes the account number and routing number that had originally been submitted to the clearinghouse, the check number, and the reason the check was declined, in this case, because the account number or/and routing number is invalid ...</p>
<p>a third instruction stored in computer readable memory, the third instruction configured to read a personal identifier associated with the first payor, wherein the personal identifier was provided in association with the second check transaction;</p>	<p>[0035] ... At state 206B, the transaction database is searched to locate the customer's personal identifier using the invalid account number and/or routing number as a search key ... The previously stored transaction information, including the customer identification information, such as the customer's ID number, is retrieved.</p>
<p>a fourth instruction stored in computer readable memory, the fourth instruction configured to locate the MICR data associated with the first cleared check using the personal identifier;</p>	<p>[0036] At state 208B the identification information is then used as a search key to locate other check transactions recorded in the transaction database associated with the same identification information. At state 210B, the located check transactions are further filtered to locate check transactions where the check was successfully processed. This filter operation is performed to locate MICR data, such as check account numbers and/or associated routing numbers, that has proven to be valid ...</p>

<p>a fifth instruction stored in computer readable memory, the fifth instruction configured to compare at least a portion of the located MICR data with at least a portion of the MICR data associated with the second check transaction; and</p>	<p>[0036] ... At state 212B, the check account numbers associated with the filtered check transactions (hereinafter “filtered valid MICR numbers”) are compared using predetermined criteria with the invalid or corrupted account number and/or routing number at issue. In one embodiment, the comparison is performed on a character-by-character basis and then the degree of mismatch is determined ...</p>
<p>a sixth instruction stored in computer readable memory, the sixth instruction configured to submit the second check for clearance using at least a portion of the located MICR data if a determination is made, based at least in part on the comparison, that the portion of the located MICR data comprises MICR data that was intended to have been used in connection with the second check transaction.</p>	<p>[0058] At state 214B a determination is made as to whether the number of character mismatches meets an acceptance criteria, which in this example is defined as “is the number of character mismatches less than or equal to a predetermined number.” If the number of character mismatches meets the acceptance criteria, this indicates that the valid filtered account number and/or routing number is a possible “match” for the invalid account number and/or routing number ...</p> <p>[0060] ... At state 220B the check is resubmitted to the clearinghouse with the filtered valid account number and/or routing number.</p>

It is respectfully submitted that the six instructions recited in independent Claim 32 are supported at least in the portions of the Specification set forth in the chart above. Accordingly, it is respectfully asserted that independent Claim 32 satisfies the requirements of the first paragraph of 35 U.S.C. § 112. Dependent Claims 33-34 are ultimately dependent from independent Claim 32, for which arguments of patentability have been provided herewith. Accordingly, it is respectfully asserted that the rejections of Claims 32-34 under 35 U.S.C. §112, first paragraph are traversed, and should be withdrawn.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

The Office Action further rejected Claims 12, 14-16, and 18-27 under 35 U.S.C. §112, second paragraph, as not particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. More specifically, the recitation in independent Claim 12 of "differing digits between the first account number and the second number is less than or equal to a selected threshold." was rejected as being indefinite because allegedly a selected threshold can be any parameter. Claims 14-16 and 18-27 were rejected for similar reasons as being dependent from independent Claim 12.

In order to clarify the scope of the claimed invention of independent Claim 12, the recitation of "a selected threshold" has been amended to recite "a predetermined number." Dependent Claim 15 has been amended in a similar manner. Support for these amendments can be found at least in paragraphs [0012] and [0059] of the Specification. For example, paragraph [0059] states in part:

[0059] At state **214B** a determination is made as to whether the number of character mismatches meets an acceptance criteria, which in this example is defined as "is the number of character mismatches less than or equal to a predetermined number." If the number of character mismatches meets the acceptance criteria, this indicates that the valid filtered account number and/or routing number is a possible "match" for the invalid account number and/or routing number. The predetermined number selection can be based on how certain the operator of the check acceptance system 108 wants to be that a true match has been located. If the operator desires a relatively high degree of certainty, the predetermined number, also referred to as the "difference criteria," may be set to "1," that is, the invalid account number and/or routing number can differ by the valid filtered account number and/or routing number by only one character. By way of another example, if relatively less certainty is required, the difference criteria may be set to "3", that is, the invalid account number and/or routing number

can differ by the valid filtered account number and/or routing number by three characters. Of course other criteria can be used as well.

It is respectfully submitted that independent Claim 12 and dependent Claim 15, as amended, satisfy the requirements of 35 U.S.C. §112, second paragraph. Dependent Claims 14-16 and 18-27 are ultimately dependent from independent Claim 12, for which arguments of patentability have been provided herewith. Accordingly, it is respectfully asserted that the rejections of Claims 12, 14-16, and 18-27 under 35 U.S.C. §112, second paragraph are now moot.

Claim Rejections Under 35 U.S.C. § 102

In the non-final Office Action, claims 12-27 and 32-34 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,464,137 to Page (hereinafter "*Page*").

As discussed and agreed upon in the telephonic Examiner's interview conducted on June 5, 2008, it is respectfully asserted that Claims 12-27 and 32-34 are allowable over *Page*. Various embodiments of the claimed invention relate to systems and methods that allow a check transaction that has initially failed to clear to be cleared utilizing data associated with a separate check transaction that has previously cleared. For example, if the check data for a check has been corrupted or inaccurately entered, a check transaction may initially fail. In this situation, check data associated with a separate check transaction that has successfully cleared may be accessed and compared to the check data from the transaction that failed. If it is determined that the check data from the cleared transaction is similar to the check data in the failed transaction, then the check data from the cleared transaction may be utilized to resubmit the failed check for clearance.

In marked contrast to the claimed invention, *Page* relates to a system in which information for a single check is utilized during the processing of the check. In *Page*, data associated with a check is stored and communicated to a processing center at the time that the check is initially prepared (See *Page* at Col. 3, lines 30-35 and Col. 4, lines 5-7). Later, when the same check is presented for cashing, a second set of data for the same check is communicated to

the processing center, and an authorization of the check is conducted by comparing the two sets of data for the check (See *Page* at Col. 4, lines 13-65).

Thus, *Page* does not teach or suggest submitting a second check transaction for clearance using an account number associated with a first cleared check transaction. In marked contrast, *Page* utilizes data for a single check in the processing of a check transaction. The only submission of a check transaction for clearance in *Page* occurs when the check data sent to the processing center by the check issuer (first set of data) matches the information on the same check when it is presented for redemption (second set of data). This is not the same as submitting a check transaction that has previously failed to clear by using a different account number.

For at least these reasons, it is respectfully asserted that the pending claims of the present application are allowable over the cited art of record. Prompt allowance of the same is respectfully requested.

CONCLUSION

It is believed that each matter raised by the Non-final Office Action has been responded to. Allowance of the claims is respectfully solicited. It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

If there are any issues which can be resolved by teleconference or an Examiner's Amendment, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



Rhett S. White
Attorney for the Assignee
Reg. No. 59,158

Date: **June 23, 2008**

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street NE
Atlanta, Georgia 30309-3996
Telephone: (404) 853-8037
Facsimile: (404) 853-8806
(First Data 028100US)

Attorney Docket No.: **34250-1113**